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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-30965-2022(O&M)

Date of decision : 18.01.2025

Irshad

..... Petitioner

V/S

State of Haryana and Others

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. D.S.Matya, Advocate for petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Roshan Lal Saini, Advocate for respondents No.2 and 3.

Mr. Shantanu Bansal, Advocate for respondent No.4.

AMARJOT BHATTI J. (ORAL)

1. The petitioner- Irshad has filed the instant petition under Section 482 of Cr.P.C. for quashing of impugned FIR No.0238 dated 05.10.2018, under Section 4 of Protection of Children from Sexual Offences Act, (POCSO ACT), 2012 and Section 120-B of IPC (Charge sheet framed under Section 4 of POCSO Act and 376 of IPC) (Annexure P-1), registered at Police Station Bhondsi, District Gurugram along with all consequential proceedings arising therefrom.

2. As per the facts narrated in the FIR, complainant 'Y' father of the victim gave his statement that he is father of four children. On 04.10.2018 at about 10:30 PM his younger daughter i.e. victim 'S' aged about 14 years was tying buffalo outside the house. Ravnak who is living in neighbourhood took the victim inside her house. After some time, he along with his wife noticed that victim was not present in the house and they went to the house of Irshad. They called the victim 'S' from outside but there was no response. They also knocked at the gate but it was

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not opened. Thereafter, they returned home. After half an hour the victim came and told them that Ravnak took her inside the house where her husband Irshad did wrongful act with her forcibly. With these allegations, present FIR has been registered.

3. Learned counsel representing petitioner in support of his arguments regarding quashing of FIR under Section 482 Cr.P.C. pointed out that in fact petitioner and the alleged victim were on friendly terms. When respondent No.2 came to know about this fact, he lodged false FIR against him to harass him. Now petitioner has got married with victim (respondent No.3) on 29.05.2022 with the consent of parents from both sides and there is no grievance to respondents No.2 and 3. Copy of marriage certificate is Annexure P-2. Affidavit furnished by victim (respondent No.3) is Annexure P-3. First wife of petitioner has no objection to the second marriage of petitioner with the alleged victim and affidavit of his first wife Ravnak in this regard is Annexure P-4. Copy of compromise deed dated 07.07.2022 is Annexure P-5. Learned counsel for petitioner argued that now petitioner is happily married with alleged victim (respondent No.3) and they are living peacefully. No purpose would be served with the continuation of criminal proceedings initiated against him in FIR No.238 dated 05.10.2018 (supra) (Annexure P-1). In support of his arguments, he has relied upon the judgment of Coordinate Bench in CRM-M-12624-2021 decided on 17.05.2022 where in that case FIR registered under Section 366, 376(2)(n), 452 of IPC and Section 6 of POCSO, Act 2012 was quashed. It is submitted that FIR registered in this case and subsequent proceedings arising therefrom qua petitioner may be quashed accordingly.



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4. Learned counsel for respondents No.2 and 3 confirmed the marriage certificate dated 29.05.2022 (Annexure P-2) and affidavit of victim (respondent No.3) (Annexure P-3). Subsequently, first wife of petitioner was also arrayed as respondent No.4 who was represented by Mr. Shantanu Bansal, Advocate who also did not dispute the aforesaid factual position.

5. Learned counsel representing State during the course of arguments informed that trial in the aforesaid FIR 238 dated 05.10.2018 (Annexure P-1) was under progress. All prosecution witnesses are already examined and the trial is at its fag end.

6. I have considered the aforesaid factual position and have gone through the record. In the case in hand alleged occurrence took place on 04.10.2018 and FIR was registered on 05.10.2018 on the statement of respondent No.2 father of the victim. At the time of said occurrence, victim was 14 years of age. Present petitioner was already facing trial when petition for quashing of FIR and subsequent proceedings is filed on 10.10.2022 by relying upon the compromise deed dated 07.07.2022 (Annexure P-5) and alleged marriage certificate dated 29.05.2022 (Annexure P-2). It cannot be ignored that ingredients of offence are to be seen at the time of commission of offence. Allegations against the petitioner are serious and accordingly he has been charge-sheeted under Section 4 of POCSO Act/376 of IPC. Petitioner at the time of filing of this case has mentioned his age as 30 years who was already married to Ravnak respondent No.4. Therefore, considering the aforesaid facts, judgment relied upon by learned counsel for petitioner passed in CRM-M-12624-2021 decided on 17.05.2022 (supra) is not applicable to the facts of the present case.

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Apart from this, trial in this case is at final stage. Petitioner can raise his defence before the learned trial Court. Consequently, I do not find it a fit case for quashing of FIR on the basis of alleged compromise and the petition is accordingly declined.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

**(AMARJOT BHATTI)
JUDGE**

18.01.2025.*Sunil Devi*

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No